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**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BETTY BRINSON and HUGHSTON
BRINSON,

Defendants.

CASE NO.: 3:15-CV-359-HDM-VPC

**MOTION TO WITHDRAW AS
COUNSEL FOR DEFENDANTS**

The law firm of Holland & Hart, LLP, including attorneys J. Robert Smith, Esq. and Megan M. Fogarty, Esq. of the firm (collectively “Holland & Hart”), hereby move to withdraw as attorneys of record for defendants Betty Brinson and Hughston Brinson (collectively “Brinson”). This motion is made pursuant to Nevada District Court Local Rules IA 10-6 and IA 10-7, Nevada Supreme Court Rule 46 and Nevada Rule of Professional Conduct 1.16, and is based upon the following memorandum of points and authorities and the declaration of J. Robert Smith, filed concurrently herewith, and any further pleadings or oral argument which the Court wishes to consider.

I. WITHDRAWAL IS APPROPRIATE

Pursuant to this Court’s Local Rules, an attorney may withdraw from representing a party by leave of Court after notice served on the affected client and opposing counsel. LR IA 10-6(b). Local Rule IA 10-7 requires attorneys admitted to practice before this Court “adhere to the

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standards of conduct prescribed by the Model Rules of Professional Conduct as adopted and amended from time to time by the Supreme Court of Nevada” The Nevada Supreme Court Rules provide, in pertinent part, that an attorney may be changed “at any time before judgment or final determination . . . [u]pon order of the court or judge thereof on the application of the attorney or client.” The Nevada Rule of Professional Conduct 1.16, which is modelled after the Model Rules on this point, provides that a lawyer may withdraw from representing a client if the client “fails substantially to fulfill an obligation to the lawyer regarding the lawyer’s services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled; [or] the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client.” NRPC 1.16(b)(5)-(6).

The attorney-client relationship between Brinson and Holland & Hart has broken down, rendering the representation unreasonably difficult, as well as placing a financial burden on counsel. *Smith Decl.*, at ¶2. Requiring Holland & Hart to continue representing Brinson would be unreasonably burdensome on Holland & Hart.

Prior to filing this motion, counsel contacted Brinson to notify them that certain obligations remained unfulfilled, and that if not corrected, Holland & Hart would bring a motion to withdraw from representing Brinson. *Smith Decl.*, at ¶3. Also prior to filing this motion, counsel notified Brinson of its intent to file this motion given the breakdown in communications and other unfulfilled obligations, and explained that Brinson should promptly obtain new counsel. *Id.*

II. DEFENDANTS REQUEST RELIEF FROM CURRENT DEADLINES

This matter has not yet been set for trial. Discovery, however, is proceeding. In light of this Motion to Withdraw, Holland & Hart requests relief from the current pre-trial and discovery deadlines, and that the Court set a status conference as soon as possible to discuss a revised schedule which will allow Brinson to opportunity to identify and retain replacement counsel.

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1 **III. CONCLUSION**

2 Given the foregoing, Holland & Hart respectfully requests permission to withdraw as
3 counsel for Defendants Betty Brinson and Hughston Brinson. The last known address and
4 telephone number for Betty Brinson and Hughston Brinson is:

5 950 N. Minnesota Street
6 Carson City, NV 89703
(775) 882-4482

7
8 DATED this 4th day of March, 2016.

9 By: /s/J. Robert Smith
10 J. Robert Smith (NSB # 10992)
11 Megan M. Fogarty (NSB #8584)
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18 *Attorneys for Defendants*

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CERTIFICATE OF SERVICE

I, Cynde Kelb, declare:

I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Holland & Hart LLP. My business address is 5441 Kietzke Lane, Second Floor, Reno, Nevada 89511. I am over the age of 18 years and not a party to this action.

I am readily familiar with Holland & Hart's practice for collection and processing of: HAND DELIVERIES, FACSIMILES and OUTGOING MAIL. Such practice in the ordinary course of business provides for the delivery or faxing and/or mailing with the United States Postal Service, to occur on the same day the document is collected and processed.

On March 4, 2016, I caused the foregoing **MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANTS** to be served by the following method(s):

☒ U.S. Mail: a true copy was placed in Holland & Hart LLP's outgoing mail in a sealed envelope addressed as follows:

Betty Brinson
Hughston Brinson
950 N. Minnesota Street
Carson City, NV 89703

☒ Electronic: filed the document electronically with the U.S. District Court and therefore the court's computer system has electronically delivered a copy of the foregoing document to the following person(s) at the following e-mail addresses:

Aurora Bryant
U.S. Dept. of Justice
Email Aurora.Bryant@usdoj.gov

/s/Cynde Kelb

Cynde Kelb
An Employee of Holland & Hart LLP

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